

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

GARY S. JOHNSON, #1054987

§

VS.

§

CIVIL ACTION NO. 6:05cv199

SGT. YOUNG, ET AL.

§

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the complaint should be dismissed because the Petitioner failed to comply with orders and for failure to prosecute. More specifically, he failed to comply with an order to pay an initial partial filing fee of \$1.85 and failed to file an amended complaint, along with a copy of his Step 2 grievances for his claims. The Petitioner has responded by filing a motion to proceed *in forma pauperis* and an amended complaint, which shall be construed as objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit. The *in forma pauperis* data sheet attached to the motion to proceed *in forma pauperis* reveals that the Petitioner has the money to pay the initial partial filing fee. The amended complaint failed to answer the questions that were ordered by the Court and did not include

the Step 2 grievances. The Plaintiff still has not obeyed the orders of the Court and has failed to prosecute this case. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the cause of action is **DISMISSED** without prejudice for failure to obey an order and failure prosecute. Fed. R. Civ. P. 41(b); Rule 41, Local Rules for the Eastern District of Texas. All motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 5th day of October, 2005.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE